

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

ANDRE D. MUHAMMAD,

Plaintiff,

v.

LESTER WRIGHT et al.,

Defendants.

DECISION AND
ORDER
09-CV-639A

The above-referenced case was referred to Magistrate Judge Hugh B. Scott, pursuant to 28 U.S.C. § 636(b)(1)(B). The defendants filed a motion for summary judgment (Dkt. No. 94) on November 25, 2013. The plaintiff then made a motion on December 5, 2013 to appoint counsel, and Magistrate Judge Scott denied this motion on December 6, 2014 with a reminder to the plaintiff that his response to the summary judgment motion was due by January 15, 2014. Plaintiff then filed a motion for an extension of time to file a response to the summary judgment motion, and Magistrate Judge Scott granted the extension through April 15, 2014. To date, no response has been received from the plaintiff and the matter was deemed submitted. The record reflects that the plaintiff was advised on three separate occasions, specifically on September 27, 2013, on December 6, 2013 and again on January 6, 2014, that his failure to respond to the defendant's summary judgment motion would result in the dismissal of the complaint based upon a failure to prosecute this case. On August 5, 2014, Magistrate Judge Scott filed a Report and Recommendation,

recommending that the complaint be dismissed with prejudice.

The Court has carefully reviewed the Report and Recommendation, the record in this case, and the pleadings and materials submitted by the parties, and no objections having been timely filed, it is hereby

ORDERED, that pursuant to 28 U.S.C. § 636(b)(1), and for the reasons set forth in Magistrate Judge Scott's Report and Recommendation, the complaint is dismissed with prejudice pursuant to rule 41 of the Federal Rules of Civil Procedures. The Clerk of Court shall take all steps necessary to close the case.

IT IS SO ORDERED.

Richard J. Arcara
HONORABLE RICHARD J. ARCARA
UNITED STATES DISTRICT COURT

Dated: September 8, 2014